Ontario

Education Relations Commission

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To: The Members of the Legislative Assembly
Province of Ontario

ANNUAL REPORT
1982 - 83

Dear Members:

We have the honour to present the Eighth Annual Report of the Education Relations Commission, which covers the period from September 1, 1982 to August 31, 1983.

The Education Relations Commission

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OVERVIEW

The reporting year for the Commission – September 1, 1982 to August 31, 1983 – was characterized by substantial change in a number of areas.

Commissioners:

Four vacancies were created on the Commission during the year. John Ronson and Gabrielle Levasseur, who were members of the original Commission in 1975, completed their second three-year terms. Their contributions, directly to the Commission and indirectly to the education sector, illustrated statesmen-like qualities which were necessary both in the formation and establishment of the Commission. Brian P. Bellmore, who served one three-year term as Vice-Chairman and Gail Brent declined to stand for reappointement due to other pressing commitments. Both made signifcant contributions to the Commission.

Four new Commissioners were appointed, T. Gary O'Neill, an Ottawa lawyer, was appointed to and designated as Vice-Chairman. Appointed as Commissioners were Harvey M. Nightingale, Louise D. Binder and Donald S. Felker. (For Biographical details see page 8).

In October of 1982, Dr. Bryan M. Downie was reappointed to and designated as Chairman for a second three-year term.

Bill 179

An Act respecting Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province, commonly referred to as Bill 179 or the Inflation Restraint Act, had a significant effect on bargaining in the education sector. Bargaining stopped when the Bill was given first reading in the Legislature on September 21, 1982, and did not resume for approximately three months. However, a certain degree of ambiguity surrounded the interpretation of the Act, which was given third reading on December 15, 1982. (For details see page 6.) After this date, most negotiations in the province resumed and in all but a handful of cases the parties concluded new agreements by the end of the reporting year.

The time period from first to third reading presented a problem for the Commission. Due to the uncertainty concerning when and if Bill 179 would be proclaimed, the Commission felt that the appointment of fact finders and mediators should continue, as called for under the provisions of the ***School Boards and Teachers Collective Negotiations Act***. The parties, however, requested that fact finder reports not be released until after Bill 179 had been passed. Therefore, the Commission was faced with unusual delays in negotiations and a very marked decrease in the number of settlements reported in the Fall of 1982. The net result was that more fact finders were appointed and, contrary to the previous two rounds, negotiations for the 1982-83 year were extended considerably when compared with past negotiation rounds.

Commission Response To Bill 179

As noted above, Bill 179 was subject to a number of different interpretations regarding its implications for collective negotiations in Ontario's public sector. Because of this, the Commission obtained two legal opinions regarding this matter. After careful consideration, the following motion was passed by the Commission:

> "The Commission will continue to carry out its duties and obligations under the provisions of the ***School Boards and Teachers Collective Negotiations Act*** including without limitation, the appointment of Fact Finders and persons to assist."

The Commission, however, stated that its position did not include the supervision of strike votes. Copies of this motion, with explanation were sent to provincial and local trustee and teacher organizations.

Determination

In a dispute between the Durham Board of Education and District 17 of the Ontario Secondary School Teachers' Federation, the Board questioned the jurisdiction of the Commission to hear a Bad Faith Bargaining charge because of the passage of Bill 179. In its determination, the Commission concluded that the Inflation Restraint Act and the ***School Boards and Teachers Collective Negotiations Act*** are not in conflict and it thus had jurisdiction to hear the case. The determination also noted:

> At a time when our social and economic problems cry out for dialogue between our major institutions at every level (particularly between employer and employee representatives) it would be ironical indeed for public policy to shut off dialogue through a narrow interpretation of "restraint" legislation.

Judicial Review

In June the respondent, the Durham Board of Education, indicated it would seek judicial review of this determination. The court set aside September 21 and 22 for this hearing.

Bill 127

A second piece of legislation, ***An Act to Amend the Municipality of Metropolitan Toronto Act*** was passed during the reporting year. This Act requires the ***joint*** bargaining of the Metropolitan Toronto School Board and the six school boards within the boundaries of Metropolitan Toronto with the elementary and secondary school teachers, respectively. Matters subject to joint negotiations are: salaries, financial benefits and the method used to determine the number of teachers to be employed by each board.

Negotiations with respect to local concerns will continue to be carried out between local boards and the individual branch affiliate. Significant ammendments were made to this Act prior to passage but its impact on negotiations remains to be seen.

Training (Third Parties)

The Commission is directed by Section 60(1)(e) of the Act "to select and where necessary train persons who may act as mediators, fact finders, arbitrators or selectors". In the previous year the Commission reported the production of a training film called "Apples Won't Get It Anymore" for use in its development of third parties and also for the education of the parties. This film was used as the focus of the mediation workshop in June where, 50 experienced third-parties previewed the film and took part in role-play situations designed by E.R.C. staff. As well, two noted experts in dispute resolution, John J. Popular and Tom Colossi addressed the workshop.

A workshop for fact finders was held in May. Forty prospective third-parties – mainly lawyers, academics and former educators, attended sessions which dealt with the Act, school finances, and the fact finding process.

Mediation

The number of negotiating situations increased from 168 in 1981-82 to 173 in 1982-83. The insertion of a mediator just prior to the appointment of a fact finder is a dispute resolution strategy followed by the Commission. In 1982-83, however, the number of pre-fact finding mediation appointments decreased due to the timing and impact of the Inflation Restraint Act. In spite of the lower number, the results of pre-fact finding mediation, as presented in Table 9, indicate its utility as a dispute resolution technique.

Fact Finding

The number of negotiating situations increased by 5 in 1982-83, while the number of fact finding appointments increased by 12. In 1982-83, 62 fact finders were appointed as opposed to 50 in 1981-82. As noted earlier, this was due to the introduction of the Inflation Restraint Act in the Fall of 1982.

Personnel Changes

J.A. (Sam) McKeown, who had been Director of Field Services with the Commission since 1975, retired in January of 1983. Mr. McKeown played a major role in developing the liason style which the Commission evolved in its dealings with teacher and school board organizations, both on a provincial and local level.

The Commission moved to fill this vacancy in April with the appointment of V. (Bill) Piliotis as Director of Field Services. Mr. Piliotis had been Director of Employee Relations with the Windsor Board of Education since 1975. He has also been with the Ministry of Labour, where he played a major research role in preparation for the development of the ***Teachers and School Boards Collective Negotiations Act***. Previously he worked as a union organizer. He, therefore, brings to the Commission substantial expertise in both labour relations generally and education specifically.

TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO – A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compulsory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy and, therefore, in conflict with the principle of representative government.

Moreover, those who drafted Bill 100 were convinced by events in the education sector as well as other jurisdictions that strike-prohibiting legislation is not always effective. In fact, it was felt that it could have the opposite effect. There was – and is – a feeling by many labour relations experts that legislation prohibiting strikes may expand or magnify employer-employee confrontation. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher-board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures, and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as ***voluntary*** arbitration or final offer selection were provided at each step in the bargaining process. Events leading to a ***legal*** strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

a) A fact finder has met with the parties and his report has been made public; and

b) A 30-day cooling-off period takes place after the fact finder's report is submitted to the parties; and

c) The teachers have voted – by secret ballot in a supervised vote – on the last offer of the school board; and

d) The teachers have noted – by secret ballot in a supervised vote – to take strike action.

Other features of the Act were also significant. Negotiations take place at the county board level between the local teachers' federation(s) and the school board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for binding settlement of disputes arising out of administration of the agreement if such a procedure has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-man commission – The Education Relations Commission – to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under section 60 of the Act which are outlined below.

1. Monitoring all negotiations;

2. Collecting and providing data to all parties in collective negotiations;

3. Assisting the parties in their collective negotiations;

4. Training third party neutrals;

5. Adjudicating bad faith bargaining charges;

6. Supervising last-offer, strike and ratification votes;

7. Advising the Lieutenant Governor in Council concerning jeopardy to students' courses of study in the event of strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission – referred to as the Matthews Commission – chaired by Dr. B.C. Matthews, the President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first five years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act.

Redundant sections of the Act were removed in 1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the ***School Boards and Teachers Collective Negotiations Act, Revised Statutes of Ontario, 1980, Chapter 464.***

II INFLATION RESTRAINT ACT

Teacher-Board negotiations were significantly altered when ***An Act respecting the Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province*** – Bill 179 – was introduced. Briefly, Bill 179, introduced in the Legislature on September 21, 1982, limited compensation increases in the public sector to up to 9 percent in the first year of the program (the "transitional" year) and to 5 percent in the second year (the "control" year). The legislation removed the right-to-strike or lock-out and also provided for the formation of the Inflation Restraint Board (IRB) to administer the Act, set its internal policy and procedures, and to monitor wage and price controls in the public sector.

The introduction of Bill 179 had an immediate effect on the progress of teacher-board negotiations. In almost every instance, across the province, negotiations were stalled as the parties assessed the implications of the proposed legislation. During the three month period from the time the Bill was introduced until it was proclaimed the bargaining atmosphere was adversely affected as uncertainty about the implications increased. This uncertainty persisted as bargaining slowly resumed.

In this regard, the significant sections of the Act are as follows:

Section 13: which extends the terms and conditions of the collective agreement;

Section 14: which allows the parties to a collective agreement to apply to the IRB with respect to certain disputed matters;

Section 15: which states that parties to a collective agreement which includes a compensation plan that is extended under Section 11 may, by agreement, amend the terms and conditions . . . other than compensation rates . . .

In many jurisdictions negotiations proceeded normally within the constraints imposed by the provisions of Bill 179.

Collective agreements were signed which reflected the 9% ceiling on increases in the grid. In others, negotiations ceased as Boards took the position that section 13 of the legislation extended the collective agreements thus removing the obligation to bargain. This issue ultimately was placed before the Commission in the form of an application by the secondary school teachers employed by the Durham County Board of Education for a determination with respect to good faith bargaining. The details of this application are contained on page 45.

III THE COMMISSION – MEMBERS AND ORGANIZATION STRUCTURE

The Education Relations Commission is composed of five members appointed by the Lieutenant Governor in Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan M. Downie was first appointed Chairman of the Commission on November 1, 1979 and was reappointed for a second term on October 31, 1982. T. Gary O'Neill was appointed Vice-Chairman on December 22, 1982. Louise D. Binder was appointed a Commissioner in February of 1983, Donald S. Felker in February of 1983 and Harvey M. Nightingale in October of 1982. A biographical sketch of each of the Commissioners is contained on pages 8 and 9.

The Commission has a permanent staff of 16 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre of more than seventy individuals who are appointed on a contractual basis as third party neutrals. This arrangement has allowed the Commission to attract and continue to appoint some of the most able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions – Field Services and Research Services. (An organization chart is provided on page 11.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

The small size and the vast experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

MEMBERS OF THE COMMISSION

Chairman –
BRYAN M. DOWNIE, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, ***Collective Bargaining and Conflict Resolution in Education*** examines the activites and policies of the Education Relations Commission during the formative years. He is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C. and is currently President-Elect of the Canadian Industrial Relations Association and a member of the Board of Directors of the Social Science Federation of Canada.

Vice-Chairman –
T. GARY O'NEILL, B.A. Sc. (University of Toronto), M.Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the Education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.

Commissioner –
HARVEY M. NIGHTINGALE, B.A. (Univeristy of Western Ontario), M. Ed. (University of Toronto), M.A. (York University).

Mr. Nightingale served as Director of Economic and Legislative Services for the Ontario Trustees Council from 1973 to 1981. In this position he was responsible for both developing and articulating the trustee position on various educational issues, including collective bargaining – ***the School Boards and Teachers Collective Negotiations Act.***

Mr. Nightingale is Executive Director of the Ontario Nursing Home Association.

Commissioner –
LOUISE D. BINDER, B.A. (University of Toronto), LL.B. (Queen's University)

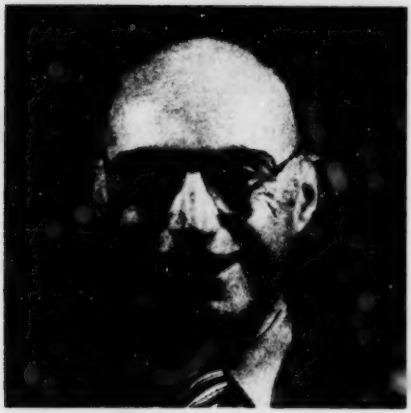
Miss Binder is Co-ordinator of Labour Relations with Gulf Canada Products Limited. Following graduation from law school she practised labour law for management with a Toronto law firm. Since 1977, she has been in private sector Employee Relations.

Miss Binder is also a member of the Ontario Public Service Labour Relations Tribunal.

Commissioner –
DONALD S. FELKER, B.A. (University of Ottawa), M.Ed. (University of Toronto) Ed.D. (University of Pennsylvania).

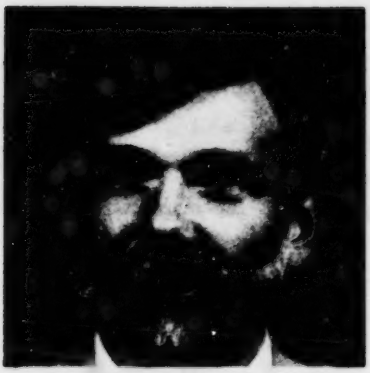
Dr. Felker, a self-employed educational consultant, has served as an appointee in both grievance and arbitration boards. He spent thirteen years in the Ontario Public School System as a Teacher, Vice-Principal and Principal and from 1968 to 1973, he served as General Secretary for the Ontario Secondary School Teachers' Federation. Dr. Felker is a Fellow of the Ontario Teachers' Federation and a Life Member of the Ontario Secondary School Teachers' Federation.

SENIOR STAFF OF THE COMMISSION



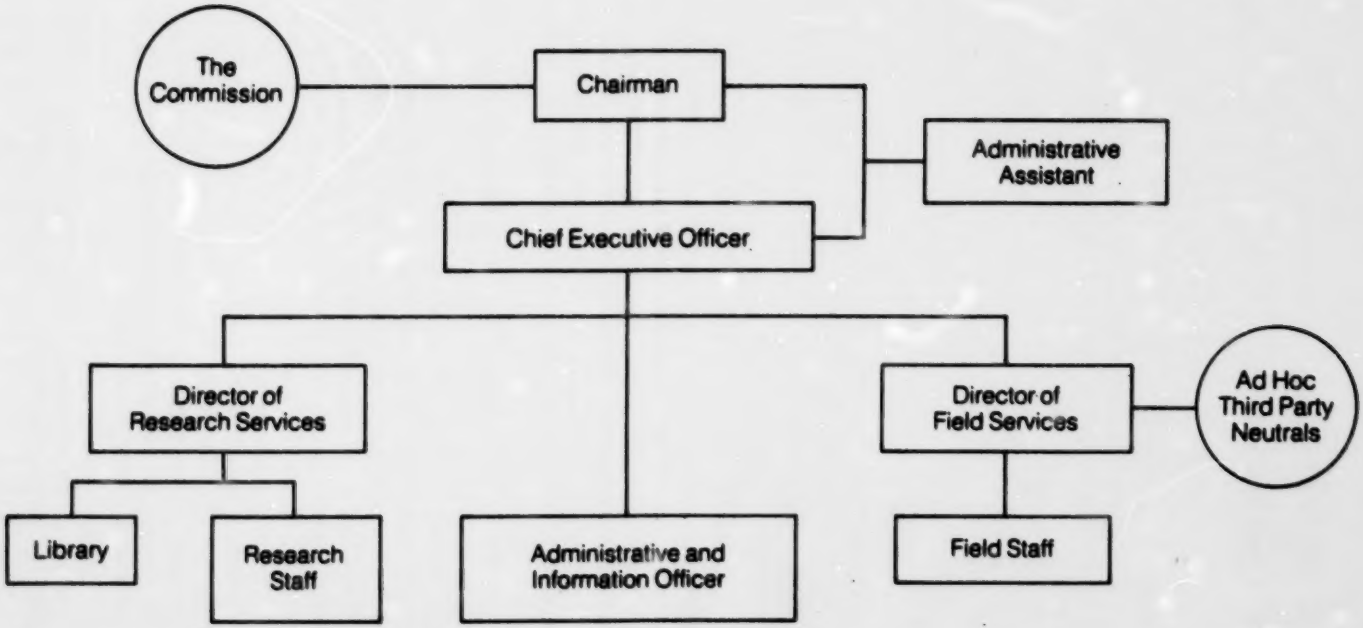
ROBERT H. FIELD
Chief Executive Officer

V. BILL PILIOTIS
Director of Field Services



EDWARD M. AIM
Director of Research Services

Organization Chart: The Education Relations Commission



IV STAFF ACTIVITIES

1. Field Services

(a) Liason Activities

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. The two Field Officers under the direction and supervision of the Director of Field Services are responsible for monitoring the negotiations in all jurisdictions in the Province. This regular contact, by both on-site visits and phone (see Table 1) enables the individual Field Service Officers to gain an understanding of emerging issues in negotiations and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures under the Act are clarified. In addition, Field Services staff are responsible for ensuring that statutory requirements are fulfilled and that last offer and strike votes are properly conducted and supervised.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

In the 1980-81 year, Field Services introduced a greater degree of ***planning*** into the appointment process, and this has been continued and refined during the reporting year. Field Services staff now formally analyze all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses include, as well, recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher-board relationship. Through this system, more effective and economical appointments have emerged. Moreover, more informed decisions concerning third party appointments have resulted.

In an effort to enhance the quality of liaison activities, a three-year plan for field visit activities is being formulated.

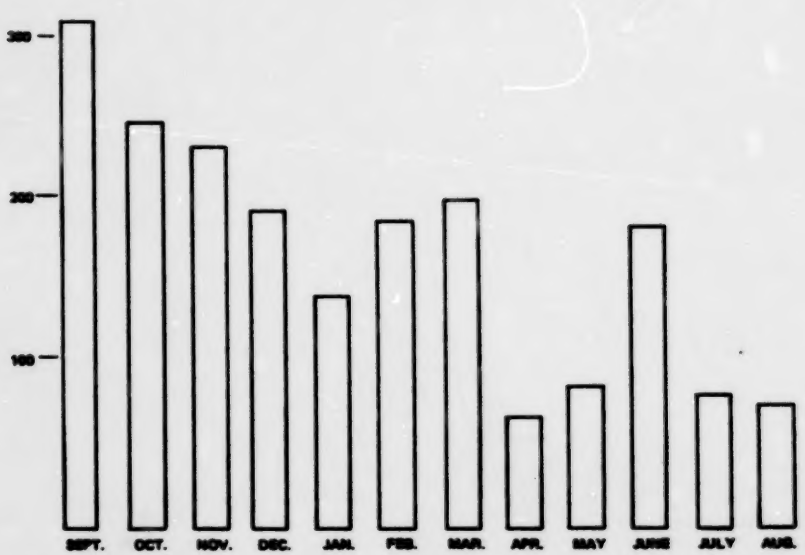
*A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers' federations or associations. A branch affiliate is comparable to a local union.

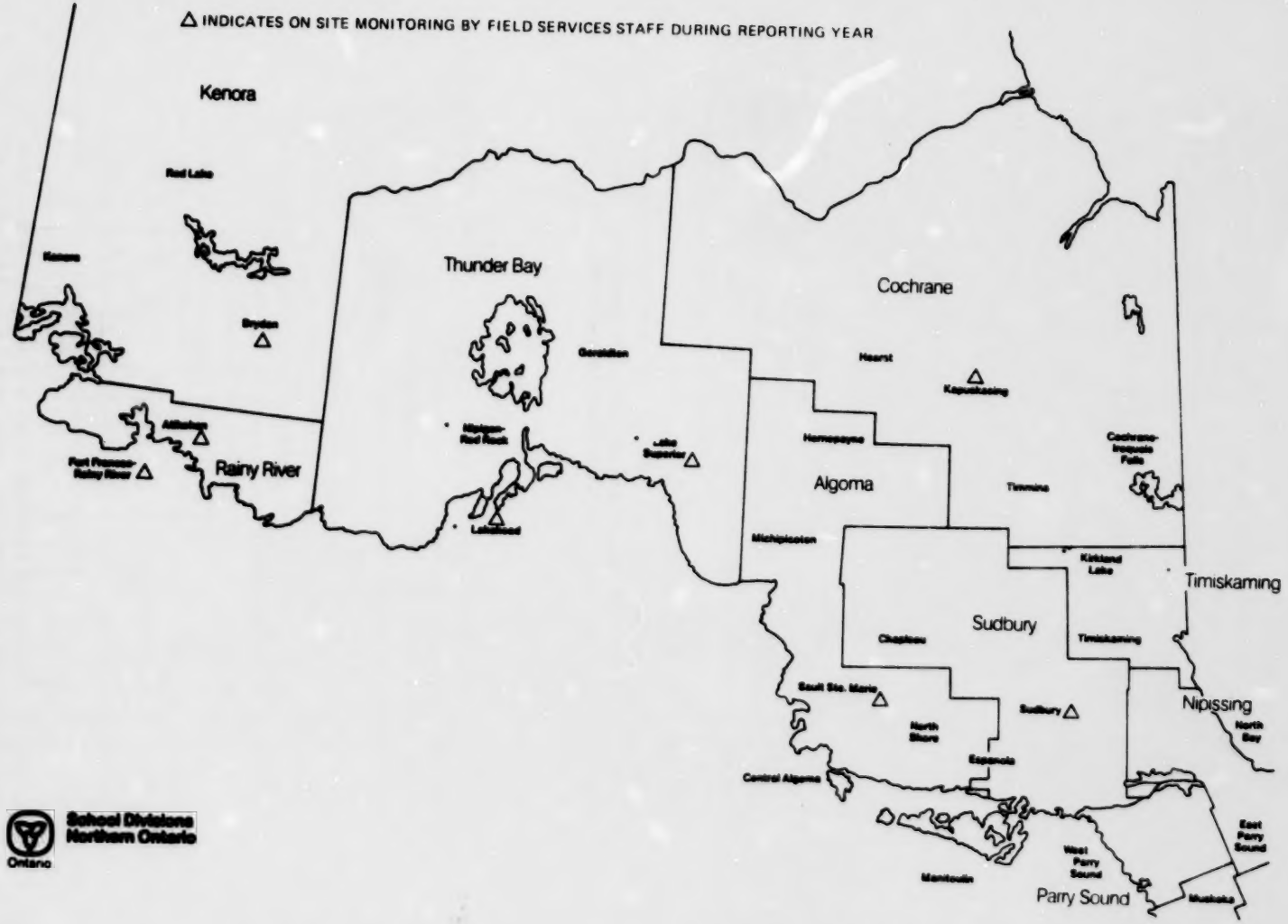
In the liaison activities, emphasis is placed on the Field Service Officers establishing a high profile with the parties and on strengthening the relations between the field officers and the branch affiliates and school boards in order to enable the Commission to provide the best possible services to the parties in their negotiations and teacher-board relations.

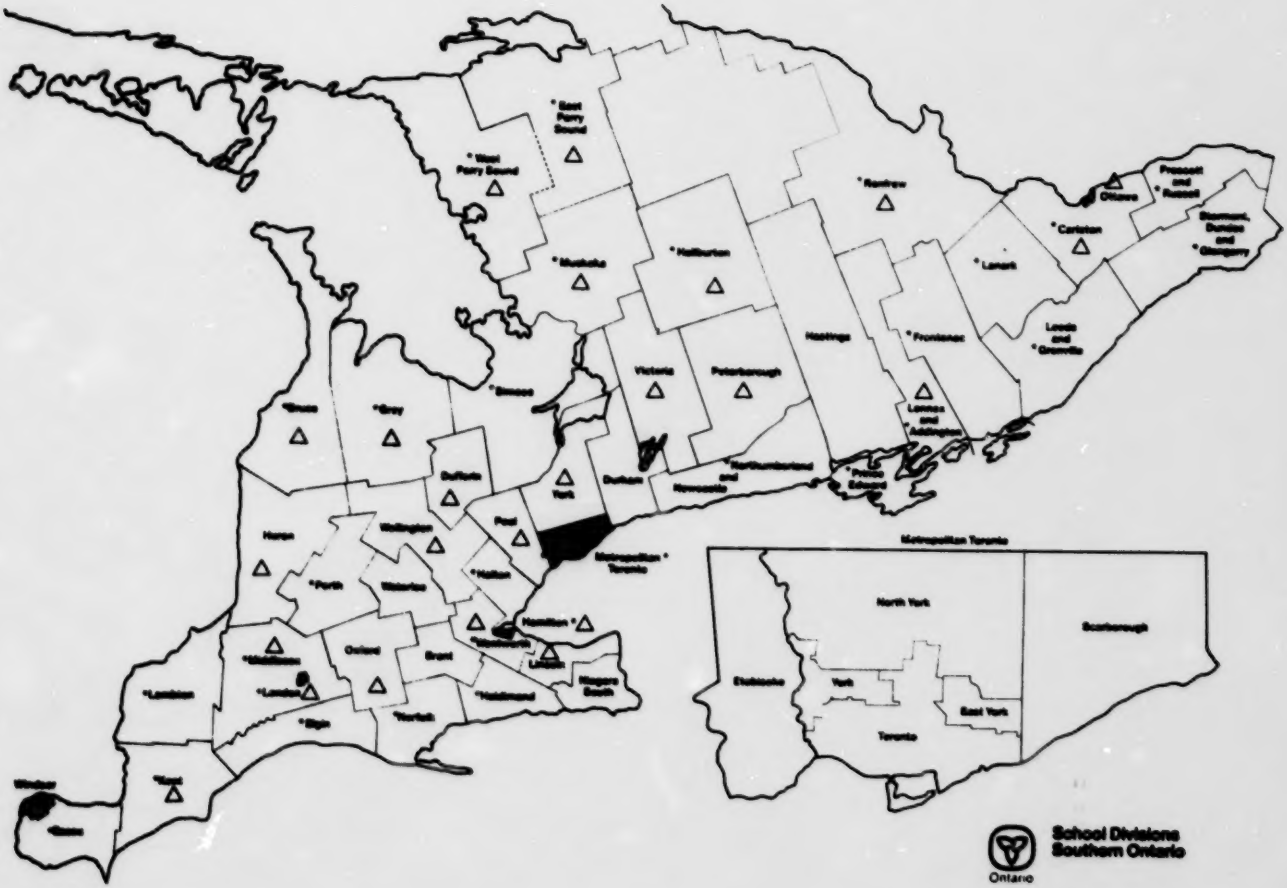
Field Services staff members no longer undertake mediation assignments. As recently as three years ago, staff members were assigned occasional mediation tasks for the Commission when such appointments seemed suitable and desirable. A decision was made by the Commission in 1980 to discontinue this practice. The Commission felt, and continues to feel, that direct involvement in negotiations by its staff would jeopardize the monitoring function of Field Services and the neutrality of the Commission. As a consequence all formal mediation is now undertaken by ***ad hoc*** third party neutrals. The Commission has developed a highly qualified, competent and totally professional group of third party neutrals upon which it can draw.

In addition to the monitoring and appointment process, Field Services staff members are intensively involved in both the planning and production of all of the Commission's workshops and ***Technical Assistance*** projects (see section (b)(i) below). They are responsible, as well, for the selection, training, evaluation, and professional development of the Commission's neutrals.

Table 1 TELEPHONE CALLS IN-COMING AND OUT-GOING FIELD SERVICE MONITORING




△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR
Kenora
Red Lake
Thunder Bay
Cochrane
Rainy River
Algoma
Timiskaming
Sudbury
Nipissing
Parry Sound
School Division of Northern Ontario
Ontario


Metropolitan Toronto
North York
Scarborough
Etobicoke
York
East York
Toronto
Ontario
School Divisions
Southern Ontario

△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR.

Ontario

Roman Catholic
Combined Separate School Zones
Northern Ontario

Bruce-Grey
Simcoe
Dufferin-Peel
York Region
Durham Region
Peterborough-Victoria-Northumberland and Newcastle
Hastings-Prince Edward
Frontenac-Lennox and Addington
Leeds and Grenville
Renfrew
Ottawa
Prescott and Russell
Cornwall
Stormont-Dundas and Glengarry
Huron-Perth
Waterloo
Halton
Hamilton-Wentworth
Niagara South
Niagara North
Oxford
Brant
Lincoln
Welland
London and Middlesex
Elgin
Haldimand-Norfolk
Kent
Essex
Windsor
Ontario
Roman Catholic Separate School Zones Southern Ontario

(b) Preventive Mediation Programs

(i) Technical Assistance

This program is administered by the Field Services unit. Its main purpose is to assist the parties in reducing, if not eliminating, the obstacles which prevent the parties from resolving matters of mutual concern. In addition, the program attempts to equip the parties with tools which will enable them to conduct their negotiations in a more effective and efficient manner within the existing structure of collective bargaining. It must be stressed that the program is not designed to change the present structure of collective bargaining. However, it is designed to enhance it and to make it work for the benefit of both parties. In contrast to conventional mediation, ***Technical Assistance*** is normally conducted outside negotiations.

It should be stressed that ***Technical Assistance*** is offered only after both parties in a jurisdiction request ERC involvement.

Although experimentation with ***Technical Assistance*** began as early as 1979-80, an official program was not established until 1980-81. The commission has now conducted a total of 24 such programs over the last four years involving eleven jurisdictions.

Although ***Technical Assistance*** is a flexible, individually-tailored program, most parties have requested programs which emphasize relationships by objectives or workshops in the areas of communications, problem-solving, decision-making, and conflict management. Workshops have been conducted both separately and jointly with groups of trustees, administrators, and teachers. All of the ***Technical Assistance*** programs appear to have been successful as judged by follow-up monitoring of the parties' relationships, and their subsequent bargaining experiences.

Armed with the experience gained from conducting the 24 programs and with the comments received from the parties, the Commission is presently reviewing the ***Technical Assistance*** program. The purpose of the review is to improve the program by focusing on the needs of the parties.

Before the program is finalized, the Field Services staff will meet with the provincial federations and trustee organizations for their comments. Once the ***Technical Assistance*** program is finalized, workshops will be conducted in order to make the parties familiar with its objectives, how it works and what it is intended to accomplish.

(ii) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance mediation is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

The Commission began to experiment with grievance mediation in 1979-80. Meetings were held with the provincial teacher federations and trustees associations to introduce the concept, and explain some of its advantages.

A training session for grievance mediators was held in 1980-81. Eight mediators from across the province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process. The purpose was to develop a group of experts from which the Commission can appoint as the need arises.

Grievance mediators have been appointed on five occasions. A complete listing is found on page 22. One appointment was made during the 1982-83 year.

HISTORY OF TECHNICAL ASSISTANCE

DATE	JURISDICTION	PARTIES	FACILITATORS	NATURE OF TECHNICAL ASSISTANCE
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Dr. David Tough	Five meetings to set up ground rules for negotiations.
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Bill McCordic	Assisted in developing a staffing formula for September 1980.
1979	Perth County Bd.	Trustees, Administrators, Secondary Teachers	Dr. David Tough	Chaired a committee of trustees, administrators and teachers on staffing and time-tabling in the secondary schools.
1979	Haldimand Bd. of Education	Trustees, Administrators, Secondary Teachers	Sam McKeown	Weekend workshop of Relationships by Objectives
Jan.-Feb., 1980	Wellington County Bd. of Education	Trustees, Administrators, Secondary Teachers	Kim Shearer	Facilitate cooperative bargaining process – 4 sessions totalling 67 hours.
May 1980	Halton Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives
June 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer	Three-day workshop on alternative methods of bargaining; representatives from 6 boards were brought together to discuss pros and cons of various methods.
June 1980	Haldimand Bd. of Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on communications.
Oct. 1980	Lennox & Add. County Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives.
Dec. 1980	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Communication Skills.
Dec. 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres	Three-day workshop on Problem Solving Skills.
Jan. 1981	East Parry Sound Bd. of Edcuation	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Contract Management.
Mar. 1981	Lambton County Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Paul Doucette	Two-day workshop on Relationships by Objectives.

Oct. 1981	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Eric Runacres Jim Breckenridge	Two-day Evaluation workshop
Apr. -May 1981	London Bd. of Education	Administrators	Sam McKeown	Planning new approaches to administration in the 80's (Two one-day sessions).
June 1981	Haldimand Bd. Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on Communication Skills.
Feb. 1982	East Parry Sound Bd. of Education	Administrators, Elementary and Secondary Teachers	Eric Runacres	One-day workshop to review communication, problem-solving and conflict management skills, establish future goals; develop action steps.
Mar. 1982	Essex RCSS Bd. of Education	Trustees, Administrators, Teachers (OPSTF FWTAO, AEFO)	Eric Runacres	Two-day workshop on communication, problem-solving and conflict management skills.
Apr. 1982	East Parry Sound Bd. of Education	Administrators, Principals of all Elementary and Secondary schools, selected department heads from the Secondary school, and consultants who serve the system	Eric Runacres Don Musella	Three-day workshop of Leadership skill development in communications, problem-solving, decision-making and ways to handle conflict.
June 1982	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Craig Crawford Jim McLachlin	Evening session to introduce new trustees and teachers to technical assistance programme.
June 1982	Timiskaming Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Sam McKeown Kim Shearer	Day and one-half workshop on Relationships by Objectives.
Nov. 1982	Lincoln Bd. of Education	Trustees and Administrators	Sam McKeown	Two-day workshop on Relationships by Objectives, familiarize new trustees with the school system operation.
Feb. 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee, 5 Elementary teachers 1 Secondary teacher	Kim Shearer	Three-day workshop to develop internal facilitators.
Feb. 1983	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Craig Crawford	Three-day workshop on communications, problem-solving conflict management, group development, and relationship focusing.
May 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher 3 ERC Staff	Kim Shearer Jim Breckenridge	Learning reinforcement for internal facilitators.

GRIEVANCE MEDIATION APPOINTMENTS 1979-83

DATE	PARTIES	GRIEVANCE MEDIATOR	NATURE OF ASSISTANCE
June, 1980	Provincial Schools Authority and Federation of Provincial Schools Authority Teachers	Maureen Saultman	Issue Resolved
June, 1981	Nipissing Board of Education and the Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Graeme H. McKechnie	Issue Resolved
March, 1982	Central Algoma Board of Education and the Branch Affiliate of O.S.S.T.F.	Malcolm Stockton	Issue Resolved
May, 1982	Northumberland and Newcastle Board of Education and the Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Malcolm Stockton	No Resolution; Issue went to Arbitration
May, 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of the O.S.S.T.F.	David Moore	Issue Resolved

(c) Selection and Training of Third Parties

Section 60(1)(e) of the Act directs the Commission "to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors."

(i) Selection

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. Each year, the Commission continues to recruit a number of third parties who are billingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(ii) Training

During the reporting year, two training sessions were held for third party neutrals. As in other years, one session was held for fact finders and one for mediators. The Commission continued to recruit new individuals with high qualifications and from a variety of backgrounds: fifteen were academics whose training is in industrial relations, 20 were lawyers specializing in labour law, and five were former school trustees or administrators.

As was the case last year, the workshop on ***conventional*** mediation explored various styles, techniques and strategies of mediation during a two-day period. The Commission continues, through both recruitment and training, to add to its contingent a group of "intensive" mediators. A U.S. study has confirmed what many labour relations experts believe, vix., "intensive" or "active" mediators are likely to be more effective in facilitating agreements between the parties than mediators who act with low intensity*. The mediation workshop this year, therefore, focused on strategies for intensive mediation.

*"Mediator intensity" refers to a mediator's level of immersion or involvement in the process of dispute resolution. A mediator who acts with low intensity usually focuses on identifying the issues in dispute, probes the problems which lie behind the issues and generally assists the parties to improve their lines of communication. At higher levels, a mediator more actively assists the parties in setting priorities, "packages" issues for discussion and trade-off, and even offers alternative solutions to the dispute. At the highest level of intensity, it is not uncommon for a mediator to use persuasion and other forms of pressure to encourage settlement. See Paul F. Gerhart and John E. Drotning, "A Six State Study of Impasse Procedures in The Public Sector: Final Report". Unpublished study in connection with U.S. Department of Labor Contract No. J-9P-7-0149.

A workshop was also held for new fact finders to acquaint them with the Act, the financial aspects of education in Ontario, the teacher and trustee organizations, and issues often involved in Ontario teacher-board bargaining.

2. Research Services

Research Services gather and provide information to assist all parties in negotiations through numerous publications on salaries and other negotiation issues, and by responding to requests for data (see Tables 2 and 3). They also undertake a broad variety of research tasks for the Commission.

(a) Information

The basic resource for the Commission's information base is the collective agreement. Approximately 200 agreements are analyzed each year by Research Services' staff. (The number of collective agreements ***negotiated*** annually varies with the number of multi-year agreements.) Information related to salaries, benefits and working conditions is extracted from these agreements and placed in a computerized data bank. During the 1982-83 year, Research Services processed more than 1,000 requests for information.

In cooperation with the Ministry of Education, the Commission continued to receive information regarding school board expenditures for a variety of allowances and benefits which are provided to teaching staff, as well as enrolment and staffing data. These are available to the parties upon request.

The Commission's reference library contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and ERC determinations. The library may be used by interested individuals.

Activities previously initiated to establish a base of non-teacher economic and labour data were furthered through contacting both neutral and non-neutral organizations to learn of their data resources and availability. Progress in this area remains slow; particularly in regard to data concerning "professionals". Nevertheless, attempts to expand the Commission's materials in this regard continue.

Advancements were also achieved in the in-house data processing capabilities initiated during 1980-81 when a mini-computer was purchased. Although the usual frustrations have been experienced, the initial developmental work is completed. The operational capabilities of the system have been tested and are now functioning.

Beyond the data pertaining to collective agreements, the equipment is being utilized to establish an in-house system related to the negotiation process to assist with record keeping, reporting and appointment functions.

The expanding use of the mini-computer/word processing equipment has in turn led to a need to upgrade it. In order to accommodate the growing amount of data, the requests for data, and the ability to handle capably the ERC's data system in house while at the same time utilizing the word processing function, it became obvious that the mini-computer would have to be equipped with hard disc capabilities. This equipment has been ordered and it is expected that it will be in place and functional in the next reporting year.

Table 2 Number of Requests for Information by Month and Party, 1982-83

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1982								
Sept.	6	18	5	4	–	5	19	57
Oct.	6	6	5	6	1	–	14	40
Nov.	4	7	8	2	2	–	12	35
Dec.	4	8	7	1	–	–	5	25
1983								
Jan.	4	9	5	2	1	1	12	34
Feb.	5	10	3	5	3	3	13	42
Mar.	3	11	2	3	3	2	6	30
April	6	7	–	5	–	–	10	28
May	5	7	–	7	–	–	20	39
June	3	11	–	1	2	–	12	29
July	2	5	–	–	2	–	7	16
Aug.	1	3	–	–	–	–	8	12
Total	**49**	**102**	**35**	**36**	**14**	**11**	**138**	**387**

Table 3 Number of Requests for Publications, Month and Party, 1982-83

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1982								
Sept.	14	16	1	1	–	2	20	54
Oct.	5	6	–	2	–	–	13	26
Nov.	7	8	–	1	–	–	26	42
Dec.	10	5	1	–	–	–	13	29
1983								
Jan.	14	20	–	4	1	1	23	63
Feb.	20	17	1	2	1	–	35	76
Mar.	13	3	2	1	–	–	37	56
April	21	21	–	4	–	–	55	101
May	9	11	1	1	–	–	59	81
June	8	8	–	1	–	–	59	76
July	3	5	–	1	–	–	14	23
Aug.	1	3	–	1	–	–	14	19
Total	**125**	**123**	**6**	**19**	**2**	**3**	**368**	**646**

(b) Research

As in previous years, Research Services personnel have prepared a number of publications containing pupil-teacher ratios, insured employee benefits, retirement gratuities, leaves, class size provisions, and compensation statistics. (See Appendix A).

Two staff-researched publications were of major significance this year. The first was an in-depth analysis of the various tactics and strategies used in mediation. The publication, entitled "The Bargaining Process and Mediation" has been sent to the third parties as a training resource.

The second publication deals specifically with the negotiation process outlined by the Act. This study entitled, "Interest Arbitration: An Examination of the Process and Awards under the ***School Boards and Teachers Collective Negotiations Act***, 1975-76 to 1981-82" looked at the 51 interest arbitrations which have taken place since 1975, in the education sector. Specifically this study outlines the criteria which various arbitrators have applied in the jurisdictions which have chosen or been legislatively required to use this method of dispute resolution.

Judging by the number of requests the Commission has received for these publications, they have been well received by the parties in the private, public and education sectors.

The ERC funded study of the Sudbury Secondary School strike has been received by the Commission. Professor Derek Wilkinson, of Laurentian University has attempted to measure some of the objective effects of the strike on Sudbury grade 13 students who enrolled in Laurentian University the next year. He concluded that "the two months of lost education in grade 13 did not affect university performance".

The final draft of this report is being prepared and it is expected the report will be published next year.

A second piece of independent research is nearing completion. Dr. Jeffery Gandz, a professor at the School of Business at the University of Western Ontario has studied a cross-section of teacher-board bargaining jurisdictions in the province. His study will attempt to identify and isolate significant factors contributing to the nature of the relationships found in negotiations.

The ***Provincial Overview***, is a bi-monthly publication published by the Commission during the school year. It contains negotiation updates from settlements in the elementary, secondary and R.C.S.S. panels. In response to suggestions from the parties, it has been expanded from six to eight pages in order to provide more flexibility

in reporting details of settlement data. It also has been used to report topics related to the bargaining process in education.

The further analysis of the bargaining process in Ontario education in terms of negotiation length, number of third-party appointments, and stages of the Act utilized in the bargaining process, was conducted in the reporting year. This on-going study, initiated three years ago, will produce data which are useful for evaluating the operation of Bill 100 and determining possible changes in ERC dispute resolution policy.

Research Services invited interested trustee, teacher and administration groups across the province to meet and discuss the information resources of the Commission. To date, 5 data workshops have been held, in local areas, and 31 more are scheduled in the fall of the next reporting year. The response from all parties to this request has been significant and clearly indicates the need to inform personnel new to bargaining in the education sector of the Commission's data resources.

A representative of the Commission attended the 25th annual meeting of the Statistics and Research Committee of the Canadian Association of Administrators of Labour Legislation (CAALL). This provided a valuable opportunity to share experiences with and learn from others involved in similar activities across the country. The Commission intends to continue this worthwhile association.

V NEGOTIATIONS 1982-83

1. The Parties

The parties to negotiations are the 2,200 trustees and the 106,000 teachers who represent and work in the approximately 200 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (48) provide Catholic education in the province. In many cases, these Boards are geographically different from each other. A second difference is illustrated by the fact that the R.C.S.S. Boards do not have a secondary panel. Provincial funding for the R.C.S.S. Boards is provided to grade 10 only. Such Boards offering grades 11, 12 and 13 are actually operating private schools.

Both the trustees and the teachers are organized in a grouping of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Associations of Ontario (FWTAO);
2. The Ontario Public School Teachers' Federation (OPSTF);*
3. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA);
5. L'Association des enseignants franco-ontariens (AEFO).

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association francaise des conseils scolaires de l'Ontario (AFCSO);
5. The Northern Ontario Public and Secondary School Trustees' Association (NOPSSTA).

*Changed from Ontario Public School Men Teachers' Federation at annual conference in August, 1982. (OPSMTF).

During 1982-83, approximately 69,980 Ontario teachers negotiated the terms and conditions of their employment. The number of school boards and the branch affiliates, by type, and the number of teachers employed by those boards are summarized in Table 4.

Table 4 School Boards, Branch Affiliates, and Teachers in Ontario 1982-83

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	–	25	76
Metro. Toronto School Board*	1	1	1	–	–	–
County and District Combined Roman Catholic Separate School Boards	48	–	–	47	40	–
Other Public School Boards	42	4	7	–	–	–
Other Separate School Boards	13	1	1	5	4	–
Secondary School Boards	1	–	–	–	–	1
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	23	8	8	–	4	2
Total	**204**	**90**	**93**	**52**	**73**	**79**
Number of Teachers	**106,046**	**30,247**	**14,613**	**20,420**	**5,354**	**35,412**

* The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSTF.

2. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, not every agreement comes up for renewal every year. The 204 school boards and 387 branch affiliates, referred to in Table 4, conducted 173 sets of negotiations during 1982-83, as indicated in Table 5.

Table 5 Status of Negotiations, 1982-83

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education – Elementary	16	60
Boards of Education – Secondary	17	58**
County and District Combined Roman Catholic Separate School Boards	13	35
Other School Boards	6	20
Total	**52**	**173****

* Concluded a multi-year settlement during a previous year.

**In addition to these situations, one (1) Secondary (Oxford) which had not settled during 1981-82, continued negotiations into the 1982-83 period and the settlement was achieved by the I.R.B.

3. Duration of Agreements

Table 6 provides a breakdown of the duration and termination dates of settlements reached *during* 1982-83.

Table 6 Duration and Termination of Settlements Concluded in 1982-83

Board Classification	Not Settled*	1 Year Aug. 31/83	2 Years Aug. 31/84
Boards of Education -- Elementary	—	40	20
Boards of Education —Secondary	10	35	14
County and District Combined Roman Catholic Separate School Boards	1	26	8
Other School Boards	—	18	2
Total	**11**	**119**	**44**

* Based on the assumption that collective agreements are *not* extended by the Inflation Restraint Act.

One of the significant developments over the past four years has been the number of ***multi-year*** agreements negotiated by the parties. However, with the introduction of the Inflation Restraint Act this trend came to an end – although there were 44 multi-year agreements negotiated during 1982-83. Of significance is the relatively large number of unsettled jurisidictions. Many parties interpreted Section 13 of the Inflation Restraint Act to mean that collective agreements had automatically been renewed, and therefore there was nothing to negotiate. The Commission, as explained in its determination concerning the Durham Bad Faith Bargaining charge, does not agree with this interpretation. As a result it is not clear just what constitutes a settlement. Table 7 presents the number of multi-year agreements reached during each year since the inception of the Act. A clear trend toward multi-year agreements began in the 1978-79 reporting year and continued in 1981-82.

Fewer multi-year agreements were concluded during the reporting year, largely due to the impact of the Inflation Restraint Act. The importance of multi-year agreements cannot be overemphasized. They introduce a measure of stability in teacher-board relationships and bargaining, and generally reduce the number of third party appointments by the ERC.

Table 7 Term of Agreements, 1975-76 to 1982-83

Term of Agreement		1975-76		1976-77		1977-78		1978-79		1979-80		1980-81		1981-82		1982-83	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Elementary:	Agreements on File	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0
Term:	8 Months	8	10.5	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0
	1 Year	56	73.7	63	82.9	68	89.5	57	75.0	30	39.5	18	23.7	35	46.1	40	52.6
	1st Yr. of Multi-Yr.	8	10.5	1	1.3	6	7.9	13	17.1	33	43.4	25	32.9	15	19.7	20	26.3
	20 Months	4	5.3	4	5.3	1	1.3	–	0.0	–	0.0	–	0.0	–	0.0	–	–
	2nd or 3rd Yr. of Multi-Yr.	–	0.0	8	10.5	1	1.3	6	7.9	13	17.1	33	43.1	26	34.2	16	21.1
Secondary:	Agreements on File	76	100.0	76	100.0	76*	100.0	76	100.0	76	100.0	76	100.0	76	100.0	66**	100.0
Term:	8 Months	5	6.6	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0
	1 Year	53	69.7	56	73.7	70	93.3	53	69.7	25	32.9	22	28.9	34	44.7	35	53.0
	1st Yr. of Multi-Yr.	10	13.2	3	3.9	1	1.3	22	28.9	29	38.1	23	30.3	17	22.4	14	21.2
	20 Months	7	9.2	7	9.2	1	1.3	–	0.0	–	0.0	–	0.0	–	0.0	–	0
	2nd or 3rd Yr. of Multi-Yr.	1	1.3	10	13.2	3	4.0	1	1.3	22	28.9	31	40.8	25	32.9	17	25.8
R.C.S.S.:	Agreements on File	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	47***	100.0
Term:	8 Months	11	22.9	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0
	1 Year	27	56.3	38	79.2	41	85.4	38	79.2	17	35.4	12	25.0	23	47.9	26	55.3
	1st Yr. of Multi-Yr.	3	6.3	3	4.2	4	8.3	6	12.5	25	52.1	11	22.0	14	29.2	8	17.0
	20 Months	6	12.5	5	10.4	1	2.1	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0
	2nd or 3rd Yr. of Multi-Yr.	1	2.1	3	6.3	2	4.2	4	8.3	6	12.5	25	52.0	11	22.9	13	27.7
Total:	Agreements on File	200	100.0	200	100.0	199	100.0	200	100.0	200	100.0	200	100.0	199	100.0	189	100.0
Term:	8 Months	24	12.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0
	1 Year	136	68.0	157	78.5	179	89.9	148	74.0	72	36.0	52	26.5	91	45.8	101	53.5
	1st Yr. of Multi-Yr.	21	10.5	6	3.0	11	5.5	41	20.5	87	43.5	59	29.0	46	23.1	42	22.2
	20 Months	17	8.5	16	8.0	3	1.5	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0
	2nd or 3rd Yr. of Multi-Yr.	2	1.0	21	10.5	6	3.0	11	5.5	41	20.5	89	44.0	52	26.1	46	24.3

*Windsor Secondary did not have a collective agreement in effect during 1977-78.

Not settled for 1982-83: ** Secondary – Bruce, East York, Etobicoke, North York, Ottawa, Red Lake, Renfrew, Scarborough, Sudbury, York City.

***R.C.S.S. – Welland

4. Persons Appointed to Assist – Mediators

A significant and positive change with respect to third party assistance began in the 1980-81 round. Mediators, or "persons to assist" as they are referred to under section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. While a mediator may help the parties fashion their own solution to the conflict, labour relations experts suggest that, with the passage of time, the parties in public sector negotiations tend to rely on third parties to an excessive degree.

It is important to note that for the third consecutive year almost three-quarters of the negotiations settled without the involvement of a mediator as compared to less than two-thirds in the 1979-80 negotiating year. As in the previous year, the 1982-83 ratio was one of the lowest since the passage of the Act.

Table 8 Assignment of Mediators, 1982-83

Board Classification	Situations Negotiating 1982-83	No Med.	Med. Only	Med. Pre F.F. Only	Med. Post F.F. Only	Med. Pre/ Post F.F.
Boards of Education – Elementary	60	45	2	9	3	1
Boards of Education – Secondary	58	32	5	9	10	2
County and District Combined Roman Catholic Separate School Boards	35	27	5	2	1	–
Other School Boards	20	19	1	–	–	–
Total	**173**	**123**	**13**	**20**	**14**	**3**

The Commission has continued a policy, introduced in 1980-81, which brought about a shift in the ***timing*** of mediation assistance.

The Matthews Commission suggested that the ERC place some emphasis (albeit with the concurrence of the parties) on mediation assistance ***prior*** to mandatory fact finding. The feeling is that this would enable the mediator to work with the parties before their positions harden. The ERC concurs with this judgement if local circumstances are appropriate. In this light, the figures in Table 8 are interesting. Because of the hiatus in negotiations just prior to, and immediately following the introduction of, the Inflation Restraint Act, far fewer "pre-fact finding" mediation appointments were made in the reporting year compared to the previous year. Of the fifty mediation appointments during the 1982-83 round, 40% were made prior to fact finding, contrasted with 55% in 1981-82. Table 9 lists the jurisdictions and outcomes where pre-fact finding mediators were appointed in the 1982-83 round. The efficacy of this type of appointment also seemed to be effected by the impending restraint legislation. Much less progress was made in negotiations during the pre-fact finding period than in post bargaining rounds. Because of this, the Commission will re-evaluate this type of approach for future negotiations.

Table 9 Pre-Fact Finding Mediation, 1982-83

Jurisdiction	Mediator	Outcome
Elementary		
Hamilton	Ed Werner	– clarification of positions – prioritization of issues
*Lennox & Addington	David Moore	– minimal reduction of issues
Metro Toronto (Except Toronto)	B. Marcotte	– isolated main issue – minor reduction of outstanding issues
Prescott Russell	Y. Tarte	– brought some order to list of outstanding issues
Sault Ste. Marie	Alan Harries	– clarified issues in dispute
Sudbury	Mac Stockton	– prioritized and clarified issues – clarification of major items
*Wentworth	Gene Deszca	– most minor items resolved
Windsor	Belinda Kirkwood	– clarified issues in dispute – significant reduction of issues in dispute – obstacle remains – P.T.R. – money also an issue
Secondary		
Central Algoma	Vic Davis	– little progress
*Haldimand	Mac Stockton	– no meetings – Restraints Act
Kirkland Lake	Norm Bernstein	– OSSTF reaction
*Leeds & Grenville	Norm Bernstein	– clarified items in dispute – Settlement
*Lennox & Addington	David Moore	– to be ratified by Board September 28th
London	Eric Runacres	– Settlement – ordered and clarified items in dispute (54) – major reduction in number of issues outstanding
Metro Toronto	Norm Bernstein	– prioritized and focus on main issues – clarification of issues and politics
Sault St. Marie	Mac Stockton	– Board waiting for provincial restraints
Sudbury	Tom Bastedo	– significant reduction of issues
*Wentworth	Mac Stockton	– clarified and prioritized issues – significant reduction in number of issues outstanding
*York Region	Bill Marcotte	– parties awaiting fact finding – Settlement
R.C.S.S.		
*Frontenac-Lennox & Addington	Mort Mitchnick	– Settlement
*Fort Francis-Rainy River	Brian Sharples	– Settlement
Halton	Gene Deszca	– Settlement
*Nipissing	Eric Runacres	– outstanding issues reduced to two – settlement awaiting initiative of one of parties
*Prescott-Russell	N. Bernstein assisted by H. Finley	– Settlement
Welland	Belinda Kirkwood	– reduced to two major issues – staffing and money
*York Region	Norm Bernstein	– issues clarified and prioritized – Settlement
OTHERS		
*Moosonee	Mac Stockton	– Settlement

*Jurisdictions did not proceed to fact finding.

5. Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. The process becomes mandatory once August 31 has passed (the contract expiry date in all teacher-board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive and procedural issues of a dispute as well as each party's position prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, immediately delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

Once the parties receive the report, they have a 15-day period in which to reach a settlement before the report is made public. If an agreement is not negotiated during this time, the report must be made public by the Commission. Should the parties reach settlement at any time during fact finding, the process is automatically terminated.

It is clear from experience in the first seven years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that in some cases fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

Under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act

and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. The preference, wherever possible, is to settle prior to the point when, under the Act, the Commission must appoint a fact finder. Second, the Commission has attempted to strengthen the fact finding process by trying to convey to the parties and to its third party neutrals that if a settlement cannot be reached without fact finding, the ensuing process should be one out of which a meaningful fact finder's report will emerge. This report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties at least the broad outlines of a settlement. Finally, during the past few years, the Commission has recruited and appointed individuals with extremely high qualifications and experience in labour-management and/or teacher-board relations; individuals who also have the expertise to write outstanding and effective fact finding reports.

A provincial review of fact finding for the 1982-83 agreement year is shown in Table 10. Virtually all fact finder appointments were made after the expiration of the collective agreement. Of the 173 sets of negotiations during the 1982-83 agreement year, 62 (36%) required fact finding assistance, compared to 50 appointments out of 168 sets of negotiations (30%) in the previous year.

Finally, a number of disputes are resolved prior to the writing and/or release of the report to the public. Table 10 reveals that, in 84% of the cases where appointments were made, reports were written and released to the parties. The parties came to a negotiated settlement immediately after receiving the fact finder's report and prior to the report being made public in 8% of the cases.

Table 10 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1982-83

Board Classification	Fact Finder Appointments	Reports Released To Parties	Reports Made Public
Boards of Education – Elementary	23	17	16
Boards of Education – Secondary	33	31	29
County and District Combined Roman Catholic Separate School Boards	4	3	2
Other School Boards	2	1	1
Total	**62**	**52**	**48**

6. Strikes, Lock-Outs and School Closings

Out of the 173 sets of negotiations referred to in Table 5, only one experienced teacher sanctions. There was a strike by secondary school teachers in Oxford County. There, the 337 teachers withdrew their services on September 21, 1982 and worked-to-rule from September 22 to September 27, 1982.

Details of this sanction are provided in Table 11. A complete record of sanctions since the passage of the Act is included in Appendix B.

Table 11 Strikes, Lock-outs and Closing of Schools, September 1, 1982 to August 31, 1983

School Board	Number of Schools	Number of Teachers	Number of Students Affected	Type of Sanction	Duration of Sanction	
Oxford County Secondary	7	337.3	5,404.1	Full withdrawal of Services	Sept. 21/82	Settled under Provisions of Inflation Restraint Act
				Work to rule	Sept. 22-27/82	
				(5 instructional days)		

7. Voluntary Binding Arbitration/Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of third party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. Neither option of third-party resolution was utilized by the parties during the reporting year.

Table 12 Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1982-83

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education – Elementary	–	–
Boards of Education – Secondary	0	–
County and District Combined Roman Catholic Separate School Boards	0	–
Other School Boards	–	–
Total	**0**	**0**

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator or a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

8. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a ***grievance*** as the final and binding step of the procedure.

During 1982-83, the Commission made 3 such appointments, two were chairmen of arbitration boards, and one was a single arbitrator. The Commission made 3 appointments the previous year, all of which were for chairmen of arbitration boards.

Table 13 Appointments Concerning Grievance Arbitration, 1982-83

Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education – Elementary	0	
Boards of Education – Secondary	0	
County and District Combined Roman Catholic Separate School Boards	3	2 Chairmen 1 Single Arbitrator
Other School Boards	–	–
Total	**3**	

9. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission.

As indicated in Table 14, during 1982-83 the Commission was called upon to supervise 4 votes by teachers on a school board's last offer and one vote on strike action. The Commission did not supervise any ratification votes on agreements made after the termination of a strike. Table 14 also includes information on the number of last offer and strike votes supervised by the ERC since the inception of the Act.

Table 14 Supervised Board's Last Offer, Strike and Ratification Votes, 1975-76 to 1982-83

Vote	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82	1982-83
Board's Last Offer Votes								
Elementary	–	–	2	1	1	–	–	–
Seondary	15	5	8	9	12	1	7[1]	4
R.C.S.S.	–	5	5	3	12	3	5[4]	–
Other	–	–	–	1	1	1	–	–
Total	**15**	**10**	**15**	**14**	**26**	**5**	**12**	**4**
Strike Votes								
Elementary	–	–	1	1	1	–	–	–
Secondary	15	4	7	4	9	1	5[1,2]	1
R.C.S.S.	–	1	4	2	7	2	5[4]	–
Other	–	–	–	1	1	–	–	–
Total	**15**	**5**	**12**	**8**	**18**	**3**	**10**	**1**
Ratification Votes								
Elementary	–	–	–	–	2	–	–	–
Secondary	–	1	5	2	4	2	3[3]	–
R.C.S.S.	–	–	1	–	2	1	2[4]	–
Other	–	–	–	–	–	–	–	–
Total	**–**	**1**	**6**	**2**	**8**	**3**	**5**	**–**

Note: Boards of Education within Metropolitan Toronto counted individually.

[1]Includes separate votes conducted by O.S.S.T.F. and A.E.F.O. in Simcoe.

[2]Includes vote taken in Northumberland and Newcastle, but not counted as Branch Affiliate, in supervised vote, voted to accept the last offer received from the school board.

[3]Includes two (2) votes in West Parry Sound as first vote resulted in rejection.

[4]Includes separate votes conducted by O.E.C.T.A. and A.E.F.O. in Carleton R.C.S.S.

10. Determination of Good Faith Bargaining

Twelve complaints of failure to bargain in good faith were filed with the Commission during 1982-83 and four have been resolved as indicated in Table 15. The remaining charges stem from the conflicting interpretation of Bill 179 and its effect on Bill 100. Therefore, hearings

with respect to these charges will not be held until the judicial review of the Commission's jurisdiction in this matter is completed (see next section).

Determination

As a result of the dual interpretation regarding the relationship between Bill 179 and the ***School Boards and Teachers Collective Negotiations Act***, a number of Bad Faith Bargaining charges were filed with the Commission under section 60(1)(f) of the Act. The first of these to be heard involved the Durham Board of Education and the Branch Affiliate of the Ontario Secondary School Teachers' Federation, District 17.

Counsel for the Board filed papers with the Commission prior to the hearing challenging the jurisdiction of the Commission to hear this matter. Counsel for the teachers (O.S.S.T.F., District 17) took an opposing view. As a result the fundamental issue was the effect of the Inflation Restraint Act on the Commission's jurisdiction and duties. A hearing was held and a determination on the issue of jurisdiction was made.

In its decision the Commission determined that the Inflation Restraint Act must be viewed as a consistent whole and that its various provisions, particularly sections 13, 14 and 15 must be logically reconciled. This exercise led the Commission to the opinion that the intent of the Inflation Restraint Act was to restrain wages in the public sector within certain limits, and to prohibit sanctions but to allow a continuation of labour management negotiations on non-monetary matters. Therefore, the Commission determined:

> . . . it is our opinion that the Inflation Restraint Act does not terminate the statutory duties imposed on the Commission under section 60 (1)(f) of the School Boards and Teachers Collective Negotiations Act.

The determination was appealed by the Durham Board of Education to the Divisional Court of Ontario for judicial review.

On October 24, 1983 the Divisional Court of the Supreme Court of Ontario unanimously dismissed an application by the Durham Board of Education for a judicial review of the decision by the Education Relations Commission regarding its jurisdiction under Section 60 (1) (f) of the ***School Boards and Teachers Collective Negotiations Act.***

On November 14, 1983 in the Court of Appeal the Durham Board of Education applied for and was granted leave to appeal this decision.

Table 15 Good Faith Bargaining Charges, 1982-83

Complainant	Respondent	Disposition
Branch Affiliate of O.S.S.T.F.*	Lake Superior Board of Education	Terminated
Branch Affiliate of O.S.S.T.F.	Muskoka Board of Education	Pending
Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Lennox & Addington County Board of Education	Resolved
Branch Affiliate of O.S.S.T.F. (2 complaints filed)	Durham Board of Education	Ruling on Preliminary objection
Branch Affiliate of O.S.S.T.F.	Dufferin County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Board of Education for the Borough of East York	Pending
Branch Affiliate of O.S.S.T.F. (2 complaints filed)	Bruce County Board of Education	Pending
Branch Affiliate of O.S.S.T.F.	Grey County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Red Lake Board of Education	Pending
Branch Affiliate of O.S.S.T.F.	Kent County Board of Education	Pending

*Initiated during the previous year.

11. Advisements

The sanction situation in Oxford County (see page 40) was not terminated through voluntary negotiations by the parties. The sanction began as a total withdrawal of services of September 21, 1983, the same day the Inflation Restraint Act was given first reading in the Legislature. Sanctions, in the form of a withdrawal of voluntary services continued for six more school days.

On February 16, 1983, the Oxford County Board of Education requested that the Inflation Restraint Board, under section 10 (b)(1) of the Inflation Restraint Act, set compensation rates in the pre-transition year. In a decision which was made on April 27, 1983, the Oxford County Secondary School Teachers were awarded 12 percent, the Principals and Vice-Principals were awarded 10.25 percent. The award stipulated that these rates were to be reduced accordingly if the parties wished to make changes in the benefit package.

APPENDIX A PUBLICATIONS ISSUED DURING 1982-83

Teacher Board Collective Agreements: Individual Summaries

A Provincial Overview

Grievance Arbitration: Summaries of arbitration decisions arising out of differences between the parties under the ***School Boards and Teachers Collective Negotiations Act.***

Teacher Placement: Grid Distributions of Ontario Teachers, Total Staff and Enrolment, January 31, 1983.

Monograph Series:

No. 26: Historical Analysis of Collective Agreements, 1975-76 to 1981-82

No. 27: Interest Arbitration: An Examination of the Process and Awards under the ***School Boards and Teachers Collective Negotiations, Act***, 1975-76 to 1981-82

No. 28: Compensation Statistics, 1981-82

No. 29: Leave Provisions: 1975-76, 1978-79, 1981-82

No. 30: Pupil-Teacher Ratios, 1976-82

No. 31: Weighted On-Grid Average Salaries, 1981-82 & 1982-83

No. 32: Insured Benefit Plans and Retirement Gratuities, 1982-83

Clause File Series:

No. 23: Class Size Provision, 1982-83

Other Publications:

The Bargaining Process and Mediation

APPENDIX B SANCTION RECORD

SANCTION RECORD, 1975-76 to 1982-83

Year/ School Board	Total Sanction Days	Total sanction Days Excluding Work-to-rule
1975-76 Secondary (6):*		
**Central Algoma	35	35
Kent County	66.5	13.5
**Kirkland Lake	44	44
**Metro Toronto	38	38
**Sault Ste. Marie	46	13
**Windsor	27	26
Year Average	42.7 (40.6)***	28.2 (32.7)***
1976-77 Secondary (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
R.C.S.S. (1):		
Durham	9	9
Year Average	9.0	9.0
1977-78 Secondary (5):		
Essex	16	16
Huron	31	31
Perth	41	0
**Renfrew	73	44
Wentworth	49	16
Year Average	42.0	21.4
R.C.S.S. (1):		
Essex	34	34
Year Average	34.0	34.0
1978-79 Secondary (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 Elementary (2):		
Brant	22	22
Peel	14	13
Year Average	18.0	17.5
Secondary (3):		
Lambton	39	39
North York	40	0
**Sudbury	56	56
Year Average	45.0	31.7
R.C.S.S. (2):		
Frontenac	14	14
Nipissing	18	18
Year Average	16.0	16.0
1980-81 Secondary (3):		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
R.C.S.S. (1):		
Essex	9	9
Year Average	9.0	9.0
1981-82 Secondary (2):		
Leeds and Grenville	0	0
West Parry Sound	51	51
Year Average	25.5	25.5
R.C.S.S. (2):		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	15.0	15.0
1982-83 Secondary (1):		
Oxford County	7	1
Year Average	7.0	1.0

* 11 sanctions if Metro = 6.
** An advisement was made pursuant to section 60(1)(h).
*** Average if Metro = 6.

APPENDIX C STATEMENT OF EXPENDITURES, APRIL 1, 1982 – MARCH 31, 1983

Categories	Budget Allocation $		Actual Expenditures $	
Salaries and Wages	**517,000***		**496,129**	
Employee Benefits	**80,600***		**71,722**	
Transportation and Communication	**180,400**		**201,471**	
Communications	12,000		13,565	
Mailing	10,400		20,231	
Freight	500		0	
Relocation Expenses	0		1,629	
Travel-Public Servants	38,000		35,008	
Travel-Others	119,500		132,667	
Services	**485,800***		**476,293**	
Advertising – Agencies	500		0	
Advertising – Print, Design	118,500		139,473	
Rental Services	8,000		9,518	
Data Processing	20,000		33,849	
Housekeeping	0		826	
Conference Expenses	11,000		18,192	
Commissioners	30,000		22,365	
Professional Services	255,500		232,620	
Building Maintenance	500		0	
Equipment Maintenance	1,800		3,585	
Special Services	40,000		15,865	
Supplies	**21,100**		**17,218**	
Data Processing Equip./Supplies	4,100		3,843	
Office Furniture	1,000		2,044	
Veh. Components, Fuel	0		2	
Office Equipment	1,000		1,093	
Clothing, Personnel & Household	0		64	
Lab. Equip./Drugs	0		10	
Utilities, Other Supplies	0		37	
Office Supplies	7,000		5,873	
Books/Publications	8,000		3,878	
Drafting & Exhibits	0		438	
Total	**1,284,900***		**1,262,833**	

*Revised – Management Board of Ontario

APPENDIX D SUMMARY OF NEGOTIATIONS, 1982-83

Negotiations conducted in accordance with the Act

Total Number of Negotiations Conducted by Boards and Teachers in Ontario	173
Number of Negotiations Not Requiring Formal Commission Assistance	98
Number of Fact Finders Assigned	62
Number of Situations where Mediator Assigned	50
Settlements by Voluntary Binding Arbitration	0
Settlements by Voluntary Final Offer Selection	0

Note: In some sets of negotiations both a fact finder and a mediator were assigned.